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MEMORANDUM FOR: COCOMP Members

Attached is a draft of Issue 16 which will be discussed at the 30 June COCOMP meeting. It has been reviewed and approved by the CIA and DIA. I intend to forward it to Admiral Imman on 1 July either for his decision or to go to

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Date 24 June 1981

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24 June 1981

25X1 BASIC ISSUE: Decentralize release authority for decompartmented satellite imagery and derived information.

STATEMENT OF PROPOSAL: Provide release/disclosure authority to the Secretary of Defense to:

- Display decompartmented satellite imagery to senior foreign officials.
- Release decompartmented satellite imagery-derived information to foreign governments and international organizations.

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PROPOSED BY: DIA

BACKGROUND:

The National Security Act of 1947 established the Central Intelligence Agency and the Director of Central Intelligence, as its head, to coordinate the intelligence activities of the several Government departments and agencies in the interest of national security. Subsequently, in 1978 Executive Order 12036 provided direction and outlined the duties and responsibilities of various entities, as well as the DCI, with respect to the National Intelligence Effort, to wit:

- The DCI is responsible for formulating policies concerning intelligence arrangements with foreign governments and for ensuring that programs are developed which protect intelligence sources and methods.
- The NFIB was established to advise the DCI concerning arrangements with foreign governments on intelligence matters and the protection of intelligence sources and methods.
- The Secretary of Defense, together with the DCI, is to ensure that no unnecessary overlap exists between national foreign intelligence programs and Department of Defense intelligence programs.

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DIA COMMENTS:

Under the above authorities and directives, a system has evolved whereby all releases of decompartmented imagery and derived information require DCI approval. These procedures were promulgated under the premise that decompartmented imagery retains its origin as national foreign intelligence and thus its originating status (ownership) remains with the DCI. DIA contends that decompartmented imagery and derived information which are now collateral material should be considered as classified military intelligence falling under the release guidelines of the National Disclosure Policy (NDP-1) which takes its authority from National Security Decision Memorandum (NSDM) 119. The NDP-1 which was concurred in by CIA is used in part by Defense for the release of sanitized and decompartmented military intelligence information derived from national foreign intelligence, i.e., COMINT and ELINT. DCI approval is not required for the foreign release of these types of intelligence.

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Routine DIA requests for release are normally processed promptly by the DCI staff but current procedures for processing crisis related items are not responsive enough for immediate military requirements. Delays have been experienced, and undoubtedly will continue especially during nonduty hours, when foreign release personnel are not on duty at CIA while duty officers versed in release matters along with foreign duty specialists are on call during nonduty hours in Defense establishments. It is envisioned that response times to worldwide military requesters could be considerably shortened.

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The vast majority and primary use of this requested authority will be for the release of decompartmented imagery-derived information. Selected displays of decompartmented imagery will be made primarily to senior foreign officials and to a much lesser extent at intelligence exchange conferences. When displayed decompartmented imagery is intended to be released, it will be done only after being coordinated and approved by the DCI. In like manner, all special programs involving foreign release of decompartmented imaging satellite material on a continuing basis, i.e., [redacted] will be fully coordinated with the DCI.

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Procedures to coordinate and account for releases will be implemented. The Foreign Disclosure Automated Data (FORDAD) system and its replacement, the Foreign Disclosure and Technical Information System (FORDIS), are Defense-wide computer systems which will be used to record all release actions. Ready access to FORDAD/FORDIS is available to the DCI staff.

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25X1 DIA views this proposal as essential to satisfy the Administration's high priority objective of enhanced military readiness. Our allies, in both Europe and [] depend upon unique advanced U.S. technology to provide critical intelligence for combined operational planning in order to defend as a single cohesive force. To maintain these combined planning efforts, it is essential to selectively contribute decompartmented imaging satellite-derived information. These exchanges have the added benefit of complementing and augmenting the limited special programs currently in effect. []

CIA COMMENTS:

25X1 The DIA proposal impinges on the responsibility, and the authority stemming from that responsibility, uniquely tasked to the DCI and therefore cannot be endorsed. Though the proposal to some may appear to be a straightforward, simple matter, it is in reality a complex issue with significant implications for the DCI's charge to protect intelligence sources and methods in general and the products of intelligence satellites in particular. It seems to seek special exemptions from what the Community has previously agreed and which the DCI has been tasked to establish in order to conduct intelligence business. The CIA believes these concepts are unsupported by the legislation and executive directives germane to this issue. []

25X1 The DCI's mandate in intelligence sharing with foreign governments is very broad. He is ultimately responsible for all such arrangements, in that all impact is one way or another on the protection and continued viability of intelligence sources and methods. The DCI is uniquely responsible for the national intelligence product, including dissemination to other countries. Such dissemination determinations are made according to fundamental criteria having to do with, *inter alia*, conformity with U.S. foreign policy, net gain for the U.S., and recipient ability to provide equal or greater protection, criteria also promulgated in the National Military Information Disclosure Policy (NDP). In addition, intelligence disclosure must be coordinated to ensure that the U.S. best judgment is shared and that release does not impact adversely on the release or operational activities of another U.S. organization. Decompartimentation or sanitization of the products of the national intelligence effort does not make them less national nor less subject to fundamental disclosure criteria. The NDP does not apply to national intelligence. It in no way modifies or affects authority and responsibilities vested in the DCI. []

Satellite photography is a national intelligence product which has a transcendent value in high-level national policy-related intelligence exchanges. Besides the considerable theatrical dimension, it has an

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extremely high desirability factor in which the want far exceeds the need. There is a tendency to use the imagery product as the easy everyday species to solve all manner of minor problems without regard to the net gain for the United States. This would lead to an indiscriminate and uncoordinated release environment. Photosatellite policy over the years has had the basic fundamental that the product is for U.S. consumption and not created for sharing with other foreign governments. Exceptions have been made within specific constraints but because exceptions exist does not mean that they constitute basic policy.

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Decompartimented imagery and derived information from that imagery is not only collaterally classified, it is also caveated WARNING NOTICE-- INTELLIGENCE SOURCES AND METHODS INVOLVED and NO FOREIGN DISSEMINATION. These dissemination controls are applied for reasons having to do with the protection and continued viability of sensitive sources and methods and the foreign policy implications of satellite reconnaissance. According to DCID 1/7 ground rules, WNINTEL and NOFORN may not be removed without originator permission. The President has made the DCI responsible to him for the protection and control of intelligence satellite products. This fundamental responsibility is not delegable any more than is, say, the SECDEF's responsibility for the national defense. Further, modification or removal of WNINTEL also requires the disseminating department to assess the potential risk to national security and to intelligence sources and methods.

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The proposal contends that the DCI-imposed control and coordination procedures sometimes cause delay in release, which is true. The sensitivity of the material should certainly dictate a process of deliberation. After all, as mentioned above, the materials are not intended for foreign release and therefore an exception is not to be assumed as a matter of right. However, DCI policy, considering that there is every right to deny release entirely, has been most liberal and timely. High-level approvals for DoD releases and disclosures have been obtained in a matter of minutes and often DCI responses have been provided before the DoD request officially arrives in the DCI staff. Every effort has been made to eliminate red tape and expedite responses. Staffing usually commences on the basis of a telephone call. It should also be pointed out that it is not unusual for requesters to take weeks to plan a release and/or disclosure only to expect DCI approval to be forthcoming in a matter of hours. When a rare delay does occur, it is for good reason. Usually it means there is a serious question regarding the facts or the consequence that could occur with the sharing of this information. Only through national-level substantive coordination can release/disclosure be judged to be in the national interest. The contention that resource consuming procedures are required in the Unified and Specified Commands can only be answered by the fact that they are self-induced and in no

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way are a requirement by the DCI or his staff. Where today in off-duty hours during crisis situations the DCI review and approval arrangement is inadequate, new procedures could and should be adopted to provide an around-the-clock response capability.

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To provide the carte blanche release/disclosure authority as requested in the proposal would, in effect, deprive the DCI of the capability to carry out the unique responsibility with which he is charged. Extensive tactical use of imagery and imagery-derived information in briefing military foreign officials would not only neutralize DCI control but would virtually neutralize the effectiveness of satellite imagery as a tool in briefing chiefs of state and other senior foreign officials. The prime effectiveness of satellite imagery in relations with foreign governments is its selective use, and selective use requires control. As the one charged with the responsibility, the DCI must retain that control.

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OPTIONS:

1. Maintain the status quo wherein the DCI affects the control and coordination for release/disclosure of decompartmented imagery and its derived information.
2. Provide the authority to the SECDEF to:
 - Display decompartmented satellite imagery to senior foreign officials.
 - Release decompartmented satellite imagery-derived information to foreign governments and international organizations.
3. Provide the authority to the SECDEF for release/display of satellite imagery and/or derived information for variations of Option 2 as determined by the NFIB.

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SUBJECT: BASIC ISSUE: Decentralize release authority for decompartmented satellite imagery and derived information.

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SA/DCI/ [redacted] jcs (24 June 81)

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